

In re: Conkling et al.
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IN THE CLAIMS:

1. (Currently Amended) An isolated nucleic acid ~~selected from the group consisting of:~~ comprising (a) the isolated nucleic acid sequence of **SEQ ID NO: 1** or ~~an active fragment thereof, wherein said fragment is at least 200 consecutive nucleotides in length; and (b) a nucleic acid sequence which is at least 95% identical to the nucleic acid sequence of (a)~~ operably linked to a *Nic* gene product.

2-3 (Canceled).

4. (Previously Presented) The isolated nucleic acid according to claim 1, wherein said nucleic acid is DNA.

5. (Currently Amended) ~~The isolated nucleic acid according to claim 1, further comprising a~~ A recombinant nucleic acid construct comprising the isolated nucleic acid of Claim 1, wherein said recombinant nucleic acid construct does not contain a *NtQPTI* coding sequence.

6. (Previously Presented) The recombinant nucleic acid construct according to claim 5, wherein said recombinant nucleic acid construct is linear.

7. (Previously Presented) The recombinant nucleic acid construct according to claim 5, wherein said recombinant nucleic acid construct is circular.

8. (Currently Amended) A microparticle coated with the isolated nucleic acid construct according to claim ~~4~~ 5, wherein said ~~microparticle~~ microparticle is suitable for transformation of a plant cell.

9. (Previously Presented) The recombinant nucleic acid construct according to claim 5, wherein said recombinant nucleic acid construct is an *Agrobacterium* vector.

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10. (Original) A plant cell comprising the isolated nucleic acid according to claim 1.

11-73. (Canceled)

74. (New) A transgenic tobacco plant comprising the isolated nucleic acid of Claim 1.

75. (New) The isolated nucleic acid of Claim 1, wherein the *Nic* gene product is selected from the group consisting of *Nic1*, *Nic2* and a combination of *Nic1* and *Nic2*.

76. (New) The isolated nucleic acid of Claim 1, wherein the nucleic acid sequence is at least 95% identical to SEQ ID NO: 1 and is operably linked to a *Nic* gene product.

77. (New) An isolated nucleic acid consisting of the isolated nucleic acid sequence of SEQ ID NO: 1.

78. (New) The isolated nucleic acid according to Claim 77, wherein said nucleic acid is DNA.

79. (New) The isolated nucleic acid according to Claim 77, further comprising a recombinant nucleic acid construct, wherein said recombinant nucleic acid construct does not contain a *NtQPT1* coding sequence.

80. (New) The recombinant nucleic acid construct according to Claim 79, wherein said recombinant nucleic acid construct is linear.

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81. (New) The recombinant nucleic acid construct according to Claim 79, wherein said recombinant nucleic acid construct is circular.

82. (New) A microparticle coated with the isolated nucleic acid construct according to Claim 77, wherein said microparticle is suitable for transformation of a plant cell.

83. (New) The recombinant nucleic acid construct according to Claim 79, wherein said recombinant nucleic acid construct is an *Agrobacterium* vector.

84. (New) A plant cell comprising the isolated nucleic acid according to Claim 77.

85. (New) A transgenic tobacco plant comprising the isolated nucleic acid of Claim 77.